

*Lodged  
proposed  
order*

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES  
2019 AUG 21 PM 3:21

2019 AUG 21 PM 3:21

*filed*

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DAVID M. HARRIS  
Assistant United States Attorney  
Chief, Civil Division  
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Attorneys for the United States of America

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

UNITED STATES OF AMERICA *ex*  
*rel.* [UNDER SEAL],

Plaintiff[s],

v.

[UNDER SEAL],

Defendant[s].

*(E)*  
No. CV 18-02667-RGK-KKx

UNITED STATES' NOTICE OF  
ELECTION TO DECLINE  
INTERVENTION AND STIPULATION  
RE UNSEALING OF CASE

[FILED UNDER SEAL PURSUANT TO  
THE FALSE CLAIMS ACT, 31 U.S.C.  
§§ 3730(b)(2) AND (3)]

[FILED/LODGED CONCURRENTLY  
UNDER SEAL: (1) [PROPOSED]  
ORDER

ORIGINAL

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11 Attorneys for the United States of America

12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

14 UNITED STATES OF AMERICA and  
the STATE OF CALIFORNIA *ex rel.*  
15 DAVID HONG,

16 Plaintiffs,

17 v.

18 EISENHOWER MEDICAL CENTER,  
EISENHOWER MEDICAL  
19 ASSOCIATES, INC., and MONICA  
20 KHANNA, M.D.,

21 Defendants.

No. CV 18-02667-RGK-KKx

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**[FILED UNDER SEAL PURSUANT TO  
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§§ 3730(b)(2) AND (3)]**

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22 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States of  
23 America ("United States") hereby notifies the Court of its decision not to intervene in the  
24 above-captioned action.

25 Although the United States declines to intervene, 31 U.S.C. § 3730(b)(1) permits  
26 the *qui tam* plaintiff David Hong ("Relator"), to maintain this action in the name of the  
27 United States provided, however, that the "action may be dismissed only if the court and  
28

1 the Attorney General give written consent to the dismissal and their reasons for  
2 consenting.” *Id.* Notwithstanding this language, the Ninth Circuit has held that the  
3 United States has the right only to a hearing when it objects to a settlement or dismissal  
4 of the action. *U.S. ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995);  
5 *U.S. ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994).  
6 Accordingly, should either the Relator or the defendants propose that this action be  
7 dismissed, settled, or otherwise discontinued, the United States requests that the parties  
8 notify the United States of the same, and the Court provide the United States with an  
9 opportunity to be heard before ruling or granting its approval.

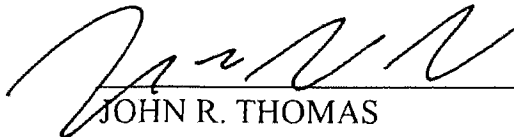
10 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that  
11 all pleadings filed in this action be served upon the United States; the United States also  
12 requests that orders issued by the Court in this action be sent to the United States’  
13 counsel. The United States reserves its right to order any deposition transcripts, to  
14 intervene in this action at a later date, for good cause, and to seek the dismissal of this  
15 action or any claims therein. The United States also requests that it be served with all  
16 notices of appeal in this action.

17 Finally, the United States, State of California, and the Relator stipulate that the  
18 Relator’s Complaint (including any amended complaints), this Notice, and the  
19 accompanying proposed Order should be unsealed. The United States, State of  
20 California, and the Relator further stipulate that all other papers filed or lodged to date in  
21 this action should remain permanently under seal because such papers were provided by  
22 law to the Court alone for the sole purpose of discussing the content and extent of the  
23 United States’ investigation and, thereby, evaluating whether the seal and time for  
24 making an election to intervene should be extended.

25 A proposed Order is lodged concurrently herewith.  
26  
27  
28

1 Dated: Aug 20, 2019

HEALY HAFEMANN MAGEE

2  
3 

JOHN R. THOMAS

Attorneys for Relator

4  
5  
6 Dated: \_\_\_\_\_, 2019

NICOLA T. HANNA

United States Attorney

DAVID M. HARRIS

Assistant United States Attorney

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JACK D. ROSS

Assistant United States Attorney

Attorneys for the United States of America

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18  
19 Dated: \_\_\_\_\_, 2019

XAVIER BECERRA

Attorney General for the State of

California

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21  
22 \_\_\_\_\_  
NICHOLAS PAUL

Supervising Deputy Attorney General

California Department of Justice

Bureau of Medi-Cal Fraud & Elder Abuse

1 Dated: \_\_\_\_\_, 2019

HEALY HAFEMANN MAGEE

2  
3 \_\_\_\_\_  
4 JOHN R. THOMAS  
5 Attorneys for Relator

6 Dated: August 21, 2019

7 NICOLA T. HANNA  
8 United States Attorney  
9 DAVID M. HARRIS  
10 Assistant United States Attorney  
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12 DAVID K. BARRETT  
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20 JACK D. ROSS  
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23 Dated: \_\_\_\_\_, 2019

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25 Attorney General for the State of  
26 California

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Supervising Deputy Attorney General  
California Department of Justice  
Bureau of Medi-Cal Fraud & Elder Abuse

1 Dated: \_\_\_\_\_, 2019

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22 Dated: Aug 6, 2019

23 XAVIER BECERRA  
24 Attorney General for the State of  
25 California

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27 RITA HANSCOM  
28 Deputy Attorney General  
California Department of Justice  
Bureau of Medi-Cal Fraud & Elder Abuse

**PROOF OF SERVICE BY E-MAIL**

I am over the age of 18 and not a party to the above-captioned action. I am employed by the Office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On August 21, 2019, I served the UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION AND STIPULATION RE UNSEALING OF CASE on each person or entity named below by e-mail.

Date of e-mailing: August 21, 2019. Place of e-mailing: Los Angeles, California.

Person(s) and/or Entity(s) to whom e-mailed:

John R. Thomas, Jr., Esq.  
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Nicholas Paul, Esq.  
Bureau of Medi-Cal Fraud and Elder Abuse  
California Department of Justice  
1455 Frazee Road, Suite 315  
San Diego, CA 92108  
Nicholas.Paul@doj.ca.gov

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 21, 2019, at Los Angeles, California.

  
\_\_\_\_\_  
JACK D. ROSS